

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 17-0974.01 Jane Ritter x4342

HOUSE BILL 17-1292

HOUSE SPONSORSHIP

Young, Hamner, Rankin

SENATE SPONSORSHIP

Lundberg, Lambert, Moreno

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CHILD WELFARE LICENSED OUT-OF-HOME PLACEMENT**
102 **PROVIDER RATES, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Joint Budget Committee. The bill sets forth guidelines for the establishment of provider rates for licensed out-of-home placement providers (providers). Rules adopted by the department of human services (department) concerning provider rates shall include cost-of-living adjustments and provider rate increases approved by the general

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

assembly.

The department is directed to continue completing an annual review of the methodology by which counties evaluate and negotiate provider rates and outcomes and submit a report to the joint budget committee. As part of the continuing review, the department shall contract with an independent vendor to:

- ! Perform a salary survey and study related to the delivery of child welfare services. The study must include salary surveys for providers; child protection employees; residential child care facility employees; and state and county employees involved with the provision of child welfare services.
- ! Perform an actuarial analysis of actual vendor costs to do business in the context of current service demands; and
- ! Develop a rate-setting methodology for provider compensation using the salary survey and actuarial analysis. In developing the rate-setting methodology, the independent vendor shall solicit input from representatives of the state department, counties, the provider community, and the department of health care policy and financing. The rate-setting methodology must clearly include a process by which the full amount of any provider rate adjustments to the base rate or previously contracted rate approved by the general assembly are included as part of any final contract with a provider.

The department shall provide the joint budget committee with a report defining the new rate-setting methodology on or before April 2, 2018.

The new rate-setting methodology must be implemented on or before June 1, 2018, except for those rates that must be approved by the federal centers for medicare and medicaid services.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 26-5-104, **amend** (6);
3 and **add** (7) and (8) as follows:

4 **26-5-104. Funding of child welfare services - rules - report**
5 **-provider contracts - funding mechanism review - definitions.**

6 (6) **County negotiations with providers.** (a) Subject to rules
7 promulgated by the state department pursuant to ~~paragraph (b) of this~~

1 ~~subsection (6)~~ SUBSECTION (6)(b) OF THIS SECTION, a county ~~shall be~~ IS
2 authorized to negotiate rates, services, and outcomes with LICENSED
3 OUT-OF-HOME PLACEMENT providers if the county has a request for
4 proposal process in effect for soliciting bids from LICENSED OUT-OF-HOME
5 PLACEMENT providers or another mechanism for evaluating the rates,
6 services, and outcomes that it is negotiating with such LICENSED
7 OUT-OF-HOME PLACEMENT providers that is acceptable to the state
8 department.

9 (b) ~~No later than~~ ON OR BEFORE January 1, 2008, AND AS
10 NECESSARY THEREAFTER, the state department shall promulgate rules
11 governing the methodology by which counties may negotiate rates,
12 services, and outcomes with licensed OUT-OF-HOME PLACEMENT
13 providers.

14 (c) ~~A county that negotiates or renegotiates rates, services, and~~
15 ~~outcomes pursuant to paragraph (a) of this subsection (6) shall include as~~
16 ~~part of such negotiations or renegotiations cost of living adjustments and~~
17 ~~provider rate increases approved by the general assembly.~~

18 (d) By July 1, 2008, and by July 1 of each even-numbered year
19 thereafter, the state department shall complete a review of the
20 methodology by which counties EVALUATE AND negotiate rates, services,
21 and outcomes with licensed OUT-OF-HOME PLACEMENT providers. The
22 methodology used is governed by rules promulgated by the state
23 department pursuant to ~~paragraph (b) of this subsection (6)~~ SUBSECTION
24 (6)(b) OF THIS SECTION. In preparing for and conducting the review, the
25 state department shall convene a group of persons representing the
26 directors of county departments of human or social services and the
27 LICENSED OUT-OF-HOME PLACEMENT provider community. ON OR BEFORE

1 SEPTEMBER 1 OF EACH FISCAL YEAR, THE GROUP SHALL SUBMIT A REPORT
2 TO THE JOINT BUDGET COMMITTEE DETAILING ANY CHANGES TO THE
3 RATE-SETTING METHODOLOGY THAT RESULTS FROM THE REVIEW
4 CONDUCTED PURSUANT TO THIS SUBSECTION (6)(d).

5 (e) On or before ~~August 1, 2016~~ SEPTEMBER 29, 2017, as a
6 continuation of the review conducted pursuant to ~~paragraph (d) of this~~
7 ~~subsection (6)~~ SUBSECTION (6)(d) OF THIS SECTION of the methodology by
8 which counties EVALUATE AND negotiate rates, services, and outcomes
9 with licensed OUT-OF-HOME PLACEMENT providers, the state department
10 shall ~~convene a group of representatives from the state department,~~
11 ~~counties, the provider community, and the joint budget committee to~~
12 ~~review the rate-setting process for provider compensation. On or before~~
13 ~~December 15, 2016, the group shall provide the joint budget committee~~
14 ~~and the child welfare allocations committee with a report that~~
15 ~~recommends whether any changes to the rate-setting process for provider~~
16 ~~compensation are advisable and, if so, the recommended process or~~
17 ~~methodology. The group is not required to recommend changes to the~~
18 ~~current rate-setting process if it determines that the current rate-setting~~
19 ~~process is the preferable option.~~ CONTRACT WITH AN INDEPENDENT
20 VENDOR TO:

21 (I) PERFORM A SALARY SURVEY RELATED TO THE DELIVERY OF
22 CHILD WELFARE SERVICES. WHEN POSSIBLE, THE ENTITY MUST NOT
23 DUPLICATE EXISTING EFFORTS THAT COLLECT PUBLIC EMPLOYEE SALARY
24 INFORMATION BUT MUST INSTEAD INCORPORATE EXISTING INFORMATION
25 INTO THE OVERALL ANALYSIS. THE SURVEY MUST INFORM THE
26 DEVELOPMENT OF THE RATE-SETTING METHODOLOGY PURSUANT TO
27 SUBSECTION (6)(e)(III) OF THIS SECTION AND MUST ACCOUNT FOR THE

1 FUNCTIONS, RESPONSIBILITIES, QUALIFICATIONS, AND OTHER RELEVANT
2 INFORMATION FOR EACH POSITION. THE STUDY MUST ALSO GUARANTEE
3 THAT AVAILABLE INFORMATION IS GATHERED FROM A DIVERSE RANGE OF
4 GEOGRAPHICAL LOCATIONS THROUGHOUT COLORADO, INCLUDING URBAN,
5 SUBURBAN, RURAL, AND MOUNTAIN RESORT COMMUNITIES. THE STUDY
6 MUST INCLUDE SALARY SURVEYS FOR:

7 (A) LICENSED OUT-OF-HOME PLACEMENT PROVIDERS WHO HAVE
8 A CONTRACT WITH THE STATE DEPARTMENT OR A COUNTY;

9 (B) CHILD PROTECTION AGENCY EMPLOYEES;

10 (C) RESIDENTIAL CHILD CARE FACILITY EMPLOYEES;

11 (D) STATE EMPLOYEES INVOLVED WITH THE PROVISION OF CHILD
12 WELFARE SERVICES; AND

13 (E) COUNTY EMPLOYEES INVOLVED WITH THE PROVISION OF CHILD
14 WELFARE SERVICES.

15 (II) PERFORM AN ACTUARIAL ANALYSIS OF ACTUAL VENDOR COSTS
16 TO DO BUSINESS IN THE CONTEXT OF CURRENT SERVICE DEMANDS,
17 INCLUDING SALARY COMPARISONS BETWEEN LICENSED OUT-OF-HOME
18 PLACEMENT PROVIDER CATEGORIES AND OVERHEAD AND ADMINISTRATIVE
19 COSTS. THE ANALYSIS MUST INFORM THE DEVELOPMENT OF THE
20 RATE-SETTING METHODOLOGY PURSUANT TO SUBSECTION (6)(e)(III) OF
21 THIS SECTION AND MUST ALSO GUARANTEE THAT AVAILABLE
22 INFORMATION IS GATHERED FROM A DIVERSE RANGE OF GEOGRAPHICAL
23 LOCATIONS THROUGHOUT COLORADO, INCLUDING URBAN, SUBURBAN,
24 RURAL, AND MOUNTAIN RESORT COMMUNITIES.

25 (III) DEVELOP THE RATE-SETTING METHODOLOGY FOR LICENSED
26 OUT-OF-HOME PLACEMENT PROVIDER COMPENSATION. THE INDEPENDENT
27 VENDOR SHALL SOLICIT INPUT FROM REPRESENTATIVES FROM THE STATE

1 DEPARTMENT, COUNTIES, THE LICENSED OUT-OF-HOME PLACEMENT
2 PROVIDER COMMUNITY, AND THE DEPARTMENT OF HEALTH CARE POLICY
3 AND FINANCING. THE METHODOLOGY MUST BE BASED ON EQUAL
4 REPRESENTATION BY COUNTIES AND LICENSED OUT-OF-HOME PLACEMENT
5 PROVIDERS.

6 (f) ON OR BEFORE APRIL 2, 2018, THE STATE DEPARTMENT SHALL
7 PROVIDE THE JOINT BUDGET COMMITTEE WITH A REPORT DEFINING THE
8 RATE-SETTING METHODOLOGY DEVELOPED PURSUANT TO SUBSECTION
9 (6)(e)(III) OF THIS SECTION, INCLUDING THE PROCESS THROUGH WHICH
10 THE DAILY RATE WAS DETERMINED.

11 (g) THE METHODOLOGY MUST BE IMPLEMENTED ON OR BEFORE
12 JULY 1, 2018, EXCEPT FOR THOSE RATES THAT MUST BE APPROVED BY
13 CMS. RATES THAT MUST BE APPROVED BY CMS MUST BE IMPLEMENTED
14 UPON APPROVAL. IN THE EVENT THAT THE REPRESENTATIVES IDENTIFIED
15 IN SUBSECTION (6)(e) OF THIS SECTION DO NOT AGREE ON THE
16 RATE-SETTING METHODOLOGY ON OR BEFORE FEBRUARY 1, 2018, THE
17 STATE DEPARTMENT, THE COUNTY REPRESENTATIVES, AND THE LICENSED
18 OUT-OF-HOME PLACEMENT PROVIDERS SHALL SUBMIT ALTERNATIVES TO
19 THE JOINT BUDGET COMMITTEE. THE JOINT BUDGET COMMITTEE SHALL
20 THEN SELECT A METHODOLOGY PRIOR TO THE START OF THE SUCCEEDING
21 STATE FISCAL YEAR.

22 (h) THE RATE-SETTING METHODOLOGY DEVELOPED PURSUANT TO
23 SUBSECTION (6)(e)(III) OF THIS SECTION MUST CLEARLY UTILIZE THE
24 DAILY RATE AND INCLUDE:

25 (I) A PROCESS THROUGH WHICH PROVIDER RATE ADJUSTMENTS,
26 INCLUDING ANY COST OF LIVING ADJUSTMENTS, THAT ARE APPROVED BY
27 THE GENERAL ASSEMBLY MUST BE FACTORED INTO ESTABLISHING THE

1 DAILY RATE; AND

2 (II) A PROCESS THROUGH WHICH OUTCOMES RELATED TO THE
3 STABILITY AND WELL-BEING OF THE CHILD ARE FACTORED INTO
4 ESTABLISHING THE DAILY RATE CONTRACT WITH A LICENSED
5 OUT-OF-HOME PLACEMENT PROVIDER.

6 (7) (a) ON OR BEFORE SEPTEMBER 1, 2018, AND ON OR BEFORE
7 SEPTEMBER 1 OF EACH FISCAL YEAR THEREAFTER, THE STATE
8 DEPARTMENT, WITH INPUT FROM COUNTIES, SHALL SUBMIT TO THE JOINT
9 BUDGET COMMITTEE A REPORT INCLUDING INFORMATION ON WORKLOAD
10 INCREASES OR DECREASES FOR THE PRECEDING CALENDAR YEAR AND THE
11 COSTS ASSOCIATED WITH SUCH CHANGES. THE STATE DEPARTMENT IS
12 ENCOURAGED TO INCLUDE IN THE REPORT DATA ON THE COST OF SERVING
13 CHILDREN PLACED IN THE CARE OF LICENSED OUT-OF-HOME PLACEMENT
14 PROVIDERS BASED ON CASE ACUITY.

15 (b) NOTWITHSTANDING SECTION 24-1-136, THE REPORTING
16 REQUIREMENT IN SUBSECTION (7)(a) OF THIS SECTION CONTINUES
17 INDEFINITELY.

18 (8) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
19 OTHERWISE REQUIRES:

20 (a) "ACUITY" MEANS THE LEVEL OF SERVICE NEEDED BY THE CHILD
21 OR FAMILY.

22 (b) "CMS" MEANS THE FEDERAL CENTERS FOR MEDICARE AND
23 MEDICAID SERVICES IN THE UNITED STATES DEPARTMENT OF HEALTH AND
24 HUMAN SERVICES.

25 (c) "LICENSED OUT-OF-HOME PLACEMENT PROVIDER" MEANS A
26 LICENSED RESIDENTIAL CHILD CARE FACILITY, A CHILD PLACEMENT
27 AGENCY, OR A SECURE RESIDENTIAL TREATMENT CENTER, AS DEFINED IN

1 SECTION 26-6-102.

2 (d) "WORKLOAD" MEANS THE NUMBER OF CHILD WELFARE CHILD
3 ABUSE AND NEGLECT HOTLINE CALLS, REFERRALS, ASSESSMENTS, OPEN
4 CASES, OUT-OF-HOME PLACEMENTS, NEW ADOPTIONS, AND ADOPTION
5 SUBSIDIES BEING HANDLED BY A COUNTY DEPARTMENT OF HUMAN OR
6 SOCIAL SERVICES.

7 **SECTION 2. Appropriation.** For the 2017-18 state fiscal year,
8 \$300,000 is appropriated to the department of human services for use by
9 the division of child welfare. This appropriation is from the general fund.
10 To implement this act, the division may use this appropriation for the
11 development of the child welfare rate-setting methodology.

12 **SECTION 3. Safety clause.** The general assembly hereby finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, and safety.